



Appeal Decision

Site visit made on 16 July 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/R0660/W/24/3340431

Mile Oak, Nantwich Road, Cheshire East, Church Minshull CW5 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Charles Winward against the decision of Cheshire East Council.
 - The application Ref is 22/2267N.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Mile Oak, Nantwich Road, Cheshire East, Church Minshull CW5 6DY in accordance with the terms of the application, Ref 22/2267N, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

3. The appeal site is located within the open countryside and contains a detached bungalow set fairly centrally within the site. To the front of the site is an area of lawn with a boundary hedgerow and mature trees. To the rear of the site is a further area of garden which is more open and is primarily separated from a neighbouring field by a ha-ha.
4. Given its location within the countryside, the replacement of a dwelling is controlled by Policy PG6 of the Local Plan Strategy 2010-2030 (The LPS) and Policy RUR 13 of the Site Allocations and Development Policies Document (the SADPD). These both allow for a replacement dwelling where it would not be materially larger than the existing, nor harm the rural character of the countryside.
5. The proposal would replace the existing bungalow with a two-storey dwelling. Both parties agree that the replacement dwelling would be materially larger than the existing and would therefore conflict with LPS Policy PG6 and SADPD Policy RUR 13.
6. From my observations on site and the evidence before me I consider that the appeal site is prominently located near the crest of a hill and close to a public highway. Although views are somewhat softened to the front by way of the mature vegetation, the rear of the site is open to both close and distant views.

Although the proposed dwelling would be deeper than the existing and provide additional floorspace, I consider it is the additional height of the proposed dwelling which would, both visually and physically, result in the greatest increase against the host dwelling. The proposal would, by way of significantly increasing the height of the dwelling at the site, be materially larger. Moreover, the proposed dwelling's prominence and scale would lead to a degree of visual intrusion greater than the host property and would, consequently harm the rural character of the wider area.

7. However, the appellant has also brought to my attention a prior approval which has been granted at the appeal site. This approval related to the erection of an additional floor over the main part of the bungalow.
8. From the information available to me, I understand that the prior approval is still extant, and that the development would need to be completed by the 28 February 2025. I am mindful that the Council have a number of concerns with the potential for this scheme to be carried out and that, stemming from these, they do not consider it to be a fallback scheme.
9. Although it appears that the works have not started on the prior approval scheme, I have no reason to believe that the remaining time is insufficient. Similarly, whilst the Council are concerned as to the structural ability of the building to accommodate such an extension, I do not find this to be insurmountable from the information before me. As a fallback requires only a realistic potential to be identified, it is overly onerous on the appellant to require them to provide detailed timing and structural information.
10. I therefore find that the fallback position has a realistic potential to be undertaken and is not merely theoretical. As both schemes would similarly provide additional space, I find that this further supports the potential for the prior approval scheme to be carried out. I have therefore afforded significant weight to this permission in my considerations.
11. The fallback scheme would retain the existing building, which is wider than the proposed replacement and would add an additional floor. The resultant building would be modestly taller than the appeal proposal and would, overall, have a greater volume. Although this scheme would not enlarge the garage, I consider the increase to the garage associated with the appeal proposal would only be modest. Consequently, and mindful of the permitted height and width of the prior approval scheme, it would result in a similar level of harm to that set out above for the appeal proposal.
12. I am content that the fallback scheme would have a realistic prospect of being carried out and would result in a similar level of harm to the appeal proposal. Therefore, whilst the existing building may not currently have been enlarged, I see no reason to not treat it as having been so for the purposes of this assessment. In that case, the proposal would not result in a materially larger replacement dwelling.
13. In light of the above, the proposal would not unacceptably affect the character and appearance of the surrounding area through its increased size or impact on the surrounding rural character. The proposal would, therefore, comply with LPS Policy PG6, SADPD Policy RUR13 and Policy H1 of the Church Minshull Neighbourhood Development Plan. These collectively, and amongst other matters, define the open countryside and support the replacement of new

dwellings that are not materially larger with particular regard to prominence, scale, bulk and visual intrusion.

Conditions

14. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
15. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
16. In the interests of protecting birds on the site and to ensure that the replacement dwelling would maintain biodiversity at the site, conditions are necessary controlling when works can commence and requiring the provision of bat and bird boxes.
17. As the proposal would include significant works in close proximity to mature trees and hedgerows, it is necessary that further details are sought to ensure their protection throughout the works. As damage could occur at any point from the start of the works, it would be necessary for this information to be confirmed prior to the commencement of works. The appellant has been consulted on this matter.
18. It is necessary, in the interests of ensuring that the replacement dwelling is not further enlarged, to impose a condition restricting certain permitted development rights for extensions and alterations to the dwelling. I consider the Council's policies provide clear justification for this in line with the Framework's requirements. As outbuildings would not directly result in the extension of the dwelling, I consider the removal of the rights afforded by Class E would be unnecessary.
19. It would also be unnecessary, in the interests of protecting the character and appearance of the surrounding area, to require further details on external materials. Rather than part of a uniform area of built development, the dwelling is read on its own. The external finishes could not, therefore, jar with the surrounding built environment.

Conclusion

20. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with drawing Nos 2490-101, 2490-120 rev C, 2490-210 rev C, 2490-211 rev C, 2490-212 rev C, 2490-213 rev B and, 000.3
- 3) No vegetation shall be removed and no buildings shall be demolished or otherwise converted between the 1 March and the 31 August in any year, unless a detailed survey has first been carried out to check for nesting birds. Where nests are found in any habitat to be removed, converted or demolished, a 4 metre exclusion zone shall be left around the nest until breeding is complete. The completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.
- 4) Prior to the use of any building materials in the new development the applicant to submit a strategy for the incorporation of features to enhance the biodiversity value of the proposed development. The submitted strategy should include proposals for the provision of features for nesting birds including house sparrow and roosting bats. The proposals shall be permanently installed in accordance with the approved details.
- 5) Prior to any equipment, machinery or materials being brought onto the site for the purposes of the development, tree protection fencing shall be erected in accordance with details first submitted to and approved in writing by the local planning authority. The fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A, AA or B of Part 1 Schedule 2 of the Order shall be carried out.